

## **TITLE 326 AIR POLLUTION CONTROL BOARD**

### **LSA Document #98-69**

#### **SUMMARY/RESPONSE TO COMMENTS FROM THE THIRD COMMENT PERIOD**

The Indiana Department of Environmental Management (IDEM) requested public comment from April 1, 1998, through April 21, 1998, on IDEM's proposed rule language. IDEM received comments from the following parties:

University of Notre Dame	(ND)
Lehigh Portland Cement Company	(LPC)
American Electric Power	(AEP)
General Electric Company	(GE)
Indianapolis Power and Light Company	(IPL)
Northern Indiana Public Service Company	(NIPSCO)
Cinergy Corporation	(CC)
Indiana Manufacturers Association	(IMA)
Eli Lilly and Company	(ELC)
Southern Indiana Gas and Electric Company (SIGECO)	

Following is a summary of the comments received and IDEM's responses thereto.

*Comment:* The rule language concerning averaging periods should be clarified further. In the response to comments, IDEM indicated that the sets of visible emissions readings could not overlap. The references to six (6) minute averaging periods and one (1) minute integrated averages in 326 IAC 5-1-2 and 326 IAC 5-1-3 should be changed to clarify IDEM's intent. The "six (6) minute averaging period" should be changed to read "six (6)-minute block averaging period" and the phrase "one (1) minute integrated averages" should be changed to read "one (1)-minute non-overlapping integrated averages". (GE)

*Response:* IDEM agrees and will revise the language accordingly.

*Comment:* The language under 326 IAC 5-1-3(c) and (d) should be clarified concerning the situations where a temporary exemption would apply. Subsection (b) refers to removing ashes and blowing tubes, but subsections (c) and (d) refer only to startup and shutdown. The subsections should be consistent and the phrase "or periods of removing ashes and blowing tubes" should be added to the references to startup and shutdown. (GE)

*Response:* IDEM agrees and will revise the language accordingly.

*Comment:* In 326 IAC 5-1-3(c) there is a reference to "subsections (a) and (b)". This should be changed to "subsections (a) or (b)". Subsections (a) and (b) apply to two different situations,

startup/shutdown and removing ashes/blowing tubes. If an affected source cannot meet the requirements of (a) during startup and shutdown, it can use subsection (c) to request an alternative opacity limitation regardless of whether it can meet the requirements in (b) concerning removing ashes and blowing tubes. The converse is also true. (GE)

*Response:* IDEM agrees and will revise the language accordingly.

*Comment:* Language should be incorporated under 326 IAC 5-1-3 that grandfathers current exemptions contained in operating permits and allow them to be directly incorporated into the Title V permits for the sources. There is no need for a demonstration of adequacy, because these exemptions were granted under previous rules that had been federally approved and will not result in a relaxation of the state implementation plan (SIP). The following is suggested language for a new subsection under 326 IAC 5-1-3 that would address this situation:

“(c) For facilities not located in Lake County which were granted temporary alternative opacity limitations prior to June 30, 1994, shall not be required to submit a demonstration in accordance with subsections (d) or (e) of this rule provided that the facility does not wish to expand the period of the temporary alternative opacity limitation. The facility shall comply with such exemption until such time as the exemption is revoked or modified in accordance with this rule.”

Subsections (c) and (d) would be renumbered and the above language inserted. (AEP)

*Comment:* The proposed rule would require a source to formally apply for a SIP revision to obtain a temporary alternative opacity limit, even if the source already has temporary limitations in current operating permits. There is no reason to have to reapply for the temporary limitations if the limitations were issued under a SIP approved rule. The process outlined in the proposed rule would require the temporary limitations to be approved by the U.S. EPA prior to being incorporated into a Title V permit. This process leaves a source with a Title V permit open to enforcement action while it awaits U.S. EPA approval, which is unacceptable. The proposed rule should be revised to account for the existing temporary limitations that are included in current operating permits to minimize the SIP approval time. (IPL)

*Comment:* Under the framework of the proposed rule, there could be several years before a temporary opacity limitation could fully and legally implemented. There should be some interim provision to provide the relief that is critical to the affected sources. (IMA)

*Comment:* The proposed language regarding alternate opacity limitations is of concern for operators of large boilers and the following recommendations are proposed:

- The proposed language should be amended to acknowledge the startup/shutdown conditions that are in current permits and to allow IDEM to incorporate startup/shutdown conditions in a Title V permit as long as the conditions are no less stringent than the conditions in existing permits.
- Amend the proposed rule at 326 IAC 5-1-3(d) to allow for the use of alternative opacity limitations from an existing operating permit in a Title V permit unless clear evidence shows that a more stringent standard is safely, practically, and economically feasible for a specific

source.

- Revise the proposed rule to accommodate alternate opacity limits for the boilers not currently covered by existing permit limits and new construction. (NIPSCO)(CC)(SIGECO)

*Response:* IDEM has worked with affected sources and the U.S. EPA to develop rule language that will recognize permit terms and conditions that have been in effect for some time and to address any concerns about protecting air quality. Changes have been included in the rule recommended for adoption that would recognize current permit requirements, but would require a demonstration of need and U.S. EPA approval of terms and conditions that do not meet certain criteria or where the source is requesting terms and conditions less stringent than existing requirements.

*Comment:* The list of fuels under 326 IAC 5-1-3(d)(1) should be expanded to include natural gas and fiber fuels such as paper. Additionally, a provision should be added to this subdivision to allow the commissioner to approve other types of fuels. (LPC)

*Response:* IDEM does not believe that natural gas should be included with the list of fuels, other than combustion of natural gas with other listed fuels. The combustion of natural gas alone does not result in particulate emissions to the extent that an alternative opacity limitation would be needed. In fact, the exclusion of natural gas from the list of fuels may encourage sources to use natural gas where appropriate to reduce opacity and the need for an alternative limitation. The fuels that have been included in the rule are primarily fossil fuels or fuels where there is a likelihood that the combustion of the fuel may result in high opacity during startup or shutdown. IDEM does not agree that paper should be included in the list, because paper is not a fossil fuel and including paper could encourage the combustion of paper that would otherwise be recycled. Language will be included to allow the agency to consider other fuels on a case-by-case basis.

*Comment:* The language under 326 IAC 5-1-3(d)(2)(B)(ii) should be revised. The word "frequency" should be deleted. The costs and time required for the startup or shutdown of large boilers already provides an incentive for companies to keep these activities to a minimum and the rule language is not needed. (IPL)

*Response:* IDEM agrees and will revise the language accordingly.

*Comment:* The language under 326 IAC 5-1-3(d)(2)(C) requires a demonstration concerning air quality. Stack testing has not been conducted during startup or shutdown and it is inappropriate to request such a demonstration based on the short time periods that sources would actually need a temporary limitation over an entire year. This language should be deleted because there is no technical or practical way to make this demonstration. (IPL)

*Response:* Discussions with the U.S. EPA have focused on the temporary exemptions and whether the temporary exemptions would allow for a relaxation of the SIP and possibly impact air quality. The U.S. EPA position is that any action by the agency that would allow for an excursion from current requirements in the SIP must be submitted to the U.S. EPA as a SIP revision. The

SIP is part of the Clean Air Act requirements for meeting the national ambient air quality standards and therefore any changes to the SIP must focus on the air quality standards. IDEM has not specified what must be included in the demonstration so that a source would not be restricted to only testing as the approved means for the demonstration. A source would have the opportunity to provide other information that may be more cost-efficient to acquire.

*Comment:* The approach taken regarding visible emissions readings and enforcement at 326 IAC 5-1-4(b) continues to be a concern. Overriding opacity monitor data with visible emissions readings with fifteen percent (15%) variability is unacceptable. Given human error and intent versus objective technology, the approach seems to be weighted the wrong way. (IMA)

*Response:* As has been indicated in previous responses, IDEM believes that the language is appropriate considering comments from the U.S. EPA and comments concerning the credible evidence rule and previous draft rule language. The proposed language would give the agency flexibility to address certain situations, while also allowing a source to refute the inspector's findings. Additional language is being proposed to be added to include an additional step that would be taken to verify the proper operation of a continuous opacity monitor prior to the initiation of enforcement action.

*Comment:* The proposed rules would require a source to perform a performance test in accordance with 326 IAC 3-6 if an inspector determines by visible emissions readings that a source is out of compliance with the opacity limitations, even though a continuous opacity monitor did not display a reading of non-compliance. Rather than requiring a performance test, the inspector could request an immediate Quality Assurance Performance Audit (audit) to validate the visible emissions readings by the inspector. If the source utilizes an outside service, then the source would have forty-five (45) days to produce a report or schedule an audit within thirty (30) days to be witnessed by the inspector. There is no economic benefit to require a performance test when an audit would indicate whether the monitor was performing as designed and in accordance with 40 CFR 60, Appendix B, Performance Specification 1. (ND)

*Response:* While it is true that violation of the opacity limitations would be considered a violation of a mass emissions limit and could only be refuted by a performance test per 326 IAC 5-1-5(a), the language at the beginning of 326 IAC 5-1-5(a) directs the reader to subsection 4(b) for situations where visible emissions readings are in conflict with continuous opacity monitor data. Subsection 4(b) would allow a source to use data other than a performance test to refute the alleged violation. IDEM did specifically request comments concerning revising the language under 326 IAC 5-1-4(b) to address concerns expressed in previous comments and during the public hearing for preliminary adoption. One of the concerns was the amount of time that may pass between an inspector's visible emission readings and the notification of the source of the alleged violation and the ability of the source to obtain the necessary information to refute the findings. IDEM has revised the language under 326 IAC 5-1-4(b) to allow the agency to request an audit and, after review of the audit results, the enforcement action will be based on the results

of the visible emissions readings or the monitor data. The language at the end of the subsection concerning a source's ability to present other information will be retained.

*Comment:* The requirement to measure both filterable and condensible under 326 IAC 5-1-5(b)(3) should be deleted. 326 IAC 6-1 establishes particulate emission limitations for sources in nonattainment counties and 326 IAC 6-1-3 specifies the methods to be used in determining compliance with those limitations. The test methods that are specified measures only filterable particulate matter. The requirement to measure condensible particulate matter, in addition to filterable particulate matter, while also requiring the source comply with the respective particulate emission limitations would effectively change the particulate limitations for the source. (IPL)(ELC)(IMA)

*Response:* IDEM agrees and will delete 326 IAC 5-1-5(b)(3).

*Comment:* The proposed rule language under 326 IAC 5-1-5(b)(4) requires that the performance test be witnessed by either the commissioner, the U.S. EPA, the local air pollution control agency, or their authorized representative. The language should be revised to be consistent with current requirements concerning performance tests. IDEM would be notified and the agency can choose to attend or not. The mandatory requirement to have an agency representative witness the test is unfair when the testing costs thousands of dollars and the source has no assurance that a witness will be present. This provision should be deleted. (GE)

*Response:* IDEM feels that, given the use of the data generated by these tests, it is important that an agency representative be present. There are several staff available for these observations, so it is unlikely that if the test date is approved in advance by the department, an observer will not be available. However, to allow some flexibility on this matter, additional language has been added that will allow testing to proceed if other arrangements are made.

*Comment:* The notice requirement under 326 IAC 5-1-5(b)(1) should be revised to reflect current practices. Current requirements for performance testing only require a thirty-five (35) day notice. The sixty (60) day notification should be changed to thirty-five (35) days. (GE)

*Response:* The current requirement of thirty-five (35) days applies to standard performance testing where methods and procedures are fairly routine. The information required in a petition for the alternative opacity limit under 326 IAC 5-1-5 includes more information than the standard testing protocol under 326 IAC 3-6. The department needs additional time to review all the information, the proposed testing scenarios, and to review any past data concerning the source or facilities for which the alternative opacity limitation is being requested.

*Comment:* One of the requirements under 326 IAC 5-1-5(b)(5)(E) is that the source must demonstrate that each test was conducted at identical operating conditions. This is impossible to achieve as no industrial process operates without some variability. The language referring to "at identical" conditions should be deleted and replaced with the phrase "under reasonably similar"

conditions. (GE)

*Comment:* The language under 326 IAC 5-1-5(b)(5)(E) should be revised to replace the term “identical” with “similar”. Process load levels, especially for boilers are hard to replicate based on weather conditions, load demands, fuel availability, etc. (IPL)

*Response:* IDEM agrees that performing the tests under identical operating conditions would be difficult and has revised the language to recognize the variability that may be present with industrial operations and equipment.